

**IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF PENNSYLVANIA**

DAVID A. WALTER,	:	CIVIL ACTION NO. 1:16-CV-496
	:	
Plaintiff	:	(Chief Judge Conner)
	:	
v.	:	
	:	
NANCY A. BERRYHILL, Acting	:	
Commissioner of Social Security,¹	:	
	:	
Defendant	:	

ORDER

AND NOW, this 12th day of April, 2017, upon consideration of the report (Doc. 7) of Chief Magistrate Judge Susan E. Schwab, recommending the court deny the appeal of David A. Walter (“Walter”) from the decision of the administrative law judge denying his application for disability insurance benefits, and it appearing that Walter did not object to the report, see FED. R. CIV. P. 72(b)(2), and the court noting that failure of a party to timely object to a magistrate judge’s conclusions “may result in forfeiture of *de novo* review at the district court level,” Nara v. Frank, 488 F.3d 187, 194 (3d Cir. 2007) (citing Henderson v. Carlson, 812 F.2d 874, 878-79 (3d Cir. 1987)), but that, as a matter of good practice, a district court should “afford some level of review to dispositive legal issues raised by the report,” Henderson, 812 F.2d

¹ Carolyn W. Colvin (“Colvin”) was Acting Commissioner of Social Security when the instant action was filed against her in her official capacity. On January 23, 2017, Nancy A. Berryhill succeeded Colvin as Acting Commissioner. Pursuant to Federal Rule of Civil Procedure 25(d), Nancy A. Berryhill is substituted as the defendant in this action. See FED. R. CIV. P. 25(d).

at 878; see also Taylor v. Comm’r of Soc. Sec., 83 F. Supp. 3d 625, 626 (M.D. Pa. 2015) (citing Univac Dental Co. v. Dentsply Int’l, Inc., 702 F. Supp. 2d 465, 469 (M.D. Pa. 2010)), in order to “satisfy itself that there is no clear error on the face of the record,” FED. R. CIV. P. 72(b), advisory committee notes, and, following an independent review of the record, the court being in agreement with Judge Schwab that the decision of the administrative law judge is “supported by substantial evidence,” 42 U.S.C. § 405(g); Fargnoli v. Massanari, 247 F.3d 34, 38 (3d Cir. 2001), and concluding that there is no clear error on the face of the record,² it is hereby ORDERED that:

1. The report (Doc. 7) of Chief Magistrate Judge Schwab is ADOPTED.
2. The decision of the Commissioner of Social Security (“Commissioner”) denying the application for disability insurance benefits of David A. Walter (“Walter”) is AFFIRMED.
3. The Clerk of Court shall enter judgment in favor of the Commissioner and against Walter as set forth in paragraph 2.
4. The Clerk of Court is directed to CLOSE this case.

/S/ CHRISTOPHER C. CONNER

Christopher C. Conner, Chief Judge
United States District Court
Middle District of Pennsylvania

² The report contains one inadvertent typographical error at page 35, to wit: the report observes that “the ALJ *did not* consider the VA’s decision at a later step in the process . . .” (Doc. 7 at 35 n. 8 (emphasis added)). As the magistrate judge notes *infra* in the report, the administrative law judge did in fact consider the VA’s decision at a later stage of the process, assigned little weight to the decision, and explained his reasons for doing so. (*Id.* at 46). This *de minimis* error has no impact on the magistrate judge’s thorough *ratio decidendi* or ultimate recommendation.